

EXHIBIT 5

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1
2
3 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

4 -----X
JENNIFER ECKHART and CATHY AREU,
5 PLAINTIFFS,
6

7 -against- Case No.:
1:20-cv-05593
8

9 FOX NEWS NETWORK, LLC, ED HENRY, SEAN
HANNITY, TUCKER CARLSON and HOWARD KURTZ,
10 in their individual and professional
capacities,

11 DEFENDANTS.
12 -----X

13 DATE: November 13, 2023
14 TIME: 11:00 A.M.
15

16 CONFIDENTIAL VIDEOTAPED REALTIME
17 DEPOSITION of the Expert Witness, DR.
18 MARLEY OAKES, M.D., taken by the
19 Plaintiffs, pursuant to a Subpoena and to
20 the Federal Rules of Civil Procedure, held
21 remotely, at all parties' locations, before
22 Karyn Chiusano, a Notary Public of the
23 State of New York.
24
25

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1 MARGARET (MARLEY) OAKES, Ph.D.

2 Q. Are they invoices? Are they
3 Zelle records?

4 A. Yeah.

5 Those are Zelle records.

6 When I met with her twice, in
7 2017, there was an invoice for two
8 sessions.

9 And then, I met with her in
10 2020 and there were four Zelle payments for
11 four sessions, four meetings then.

12 And then, in 2021, when I met
13 with her in her -- the collateral -- in a
14 -- in a couples capacity, there were Zelle
15 records from that.

16 Q. And so, I -- I -- you just
17 looked at a piece of paper.

18 Is that paper that you just
19 looked at, are those the Zelle records?

20 A. Yeah.

21 That I just dotted down the
22 dates and the Zelle, yeah the amounts.

23 Q. And so, what were the dates --

24 A. Sure.

25 Q. -- in 2000 -- yeah, what were

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1 MARGARET (MARLEY) OAKES, Ph.D.

2 MS. FISCHER: I apologize.

3 The WITNESS: That's okay.

4 Thanks.

5 Q. We can take that down.

6 A. Okay. Thanks.

7 Q. We are going to pull up another
8 document, actually.

9 MS. FISCHER: Let's pull that
10 up now.

11 This will be Exhibit 2.

12 (Whereupon, notes, was marked
13 as Exhibit 2 for identification as of
14 this date by the Reporter.)

15 The WITNESS: I don't see it.

16 Oh, okay. Oh, okay. Yes.

17 Q. Okay.

18 MS. FISCHER: So, this is --
19 why don't I ask Julia to scroll
20 through it?

21 Q. And, Dr. Oakes, can you
22 generally identify what this is?

23 A. Sure.

24 This looks like when I first
25 met Jen -- Ms. Eckhart --

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1 MARGARET (MARLEY) OAKES, Ph.D.

2 The WITNESS: Sorry.

3 A. In July -- no, October of 2017,
4 when she presented for an intake -- for a
5 consult.

6 Q. Okay. And --

7 A. And --

8 Q. Continue.

9 MS. FISCHER: I'm sorry.

10 A. I -- I believe -- and also --
11 yeah. Yeah.

12 Q. Go ahead. No. Go ahead.
13 I'm sorry.

14 A. I'm sorry. Go ahead. You
15 scroll -- I believe now, we're in to July
16 of 2020. So --

17 Q. So, you recognize these to be
18 your notes from your sessions with
19 Ms. Eckhart; is that correct?

20 A. Yes.

21 Q. Okay. And if we scroll down a
22 bit further, here's some pages with some
23 redactions.

24 Do you recognize --

25 A. Yeah.

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1 MARGARET (MARLEY) OAKES, Ph.D.

2 MR. HILLOWE: I can't answer
3 you on the record.

4 But we will speak, as -- Rachel
5 said.

6 The WITNESS: Okay.

7 Q. Going back to Exhibit 2, these
8 are the documents that were produced in
9 response to the subpoena; is that correct?

10 A. Yes; correct.

11 MS. FISCHER: You can take down
12 the exhibit for a moment.

13 Q. Well, when -- when was the
14 first time you met or spoke with
15 Ms. Eckhart?

16 A. You know, I imagine that there
17 was some phone contact, when she reached
18 out to me for a phone appointment, e-mail
19 or phone, I'm not sure when that was.

20 The first time I met with her
21 was on October 3rd.

22 Q. Do you recall how far in
23 advance of October 3, 2017 Ms. Eckhart
24 might have reached out to set up meeting
25 and set up an intake?

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1 MARGARET (MARLEY) OAKES, Ph.D.

2 A. No, I don't.

3 And -- and so, I think it would
4 have been pretty close in proximity because
5 it would be unusual to speak to somebody
6 and then delay meeting with them.

7 So -- but I don't remember when
8 we first spoke.

9 Q. Do you know how -- do you know
10 whether Ms. Eckhart was referred to you --

11 A. I don't think so.

12 I -- I -- I think that she
13 might have found me online through either
14 -- probably Psychology Today or maybe I had
15 a listing on psychology.com.

16 Yeah.

17 Q. During your initial session
18 with Ms. Eckhart, did she express to you
19 why she was seeking treatment?

20 A. Yes.

21 The primary presenting
22 situation was she had had a very, very old,
23 close friend recently die and she was
24 experiencing a lot of grief.

25 Similarly, her father was quite

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1 MARGARET (MARLEY) OAKES, Ph.D.

2 ill and so, there was some, you know,
3 anxiety that would be anticipated.

4 That was the -- those were the
5 primary presenting issues.

6 Q. In October of 2017, yes?

7 A. Yes.

8 Q. To your knowledge, had
9 Ms. Eckhart previous- -- previously sought
10 any mental health treatment?

11 A. Um, I don't believe so.

12 But I -- I don't believe so. I
13 don't recall that she had.

14 Q. What were your impressions of
15 Ms. Eckhart, based on your initial meetings
16 with her?

17 A. I found her very warm and
18 engaging.

19 There was definitely some --
20 some sadness and anxiety. I found her
21 likable, put together.

22 You know, I felt like we
23 developed a pretty easy rapport. I mean, I
24 can -- I can -- I'd be happy to say more,
25 but those were the impressions.